
What's ahead for Buffalo's legal community in 2015

Editor's Note: This is Part 1 of a two-part series.

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Joseph Kubarek of Jaeckle Fleischmann & Mugal hasn't seen this much transactional work since before the financial crisis struck in 2008. The last few months brought a steady flow of transactions, thanks in large part to a rebounding economy, said Kubarek, managing partner of the Buffalo law firm. Up until the final quarter of 2014, he said, that type of work had been sporadic in the wake of the national and global recession.

"People seem to be convinced that it's time to make an investment in new things and new business," he said. "Sellers are saying, 'It may be the right time to sell. It may never be this good again,' "

Peter Marlette of Damon Morey said the increase in transactions is due to a variety of factors including banks making more loans, the willingness of business owners to take additional risks and the economic upturn.

"We're excited about the prospects for 2015," said Marlette, managing partner and senior partner in the firm's litigation department. "There just seems to be so much going on."

Damon Morey added five attorneys in the last month alone, he said.

"There's just an uptick, especially in Western New York, where you can look out the window and see more going on than I've seen in my lifetime. You're seeing outside investment come into Western New York that we never used to see," he said.

Hodgson Russ Chairman Daniel Oliverio agreed, saying his law firm has been strengthened by the economic boom. An improved economy has prompted many companies to come off the sidelines and set their sites on acquiring other entities.

These days he's seeing lots of activity in the marketplace, and he expects that trend to continue in 2015. Indeed, it has led to a recovery of sorts for what used to be a staple practice area in many law firms: mergers and acquisitions.

"And that's to everyone's benefit," Oliverio said.

Daniel Gerber, a partner at Goldberg Segalla and co-chair of the global insurance services practice group, said the Buffalo firm saw a significant bump in transactional work with mergers and acquisitions as the corporate environment heated up.

Likewise at Phillips Lytle, said managing partner David McNamara. He sees increased demand for the firm's services, much of it driven by M&A activity. It's a trend that started to build in 2014 and he expects it to continue, thanks in part to improved business conditions in Western New York.

While corporate spending may not return to pre-2008 levels anytime soon, the scars left by a gloomy economy in recent years are beginning to fade.

"It creates a lot of demand within the industry and that creates a ripple effect with other practices benefiting from that increased demand," McNamara said.

Other practice areas to see growth

Gerber sees lots of positives in terms of law firms adapting to trends and strengthening core competencies but staying on top of trends can be a challenge.

Some bring increased demand in practice areas, requiring a high level of specialization, according to McNamara.

"We're looking forward to the continuation of that trend," he said.

Oliverio said with Hodgson Russ and others staying busy across a plethora of practice areas, they may be looking to other geographic areas that could be profitable.

So what do Western New York law firms predict will be the busiest practice areas in 2015? Here's what they had to say:

- Corporate governance and regulation — Gerber said those are big issues in times of corporate growth. "It's almost as if regulators are becoming profit centers for government and clients are having to hire lawyers every day to respond," he said.
- Data privacy — Many firms try to strike a balance in this area, with transparency to the courts and in transactions as they attempt to manage the exponential growth of information with added capabilities and devices that generate more data and emails on a daily basis, Gerber said.
- Health care — Marlette said Damon Morey continues to expand the geographic reach of its health care practice, including work in nursing homes, with individual physicians and in representing hospitals.
- Insurance — With excess capital in the insurance fields, companies are eyeing portfolio transfers, Gerber said, as well as alternative products and investments.
- Intellectual property — McNamara sees an uptick in this practice area, especially concerning the medical sector.
- International trade regulations — Part of the highly specialized work that McNamara said he sees becoming more available in the marketplace.
- Labor/employment — As the regulatory climate becomes more pro-employee, Kubarek said Jaeckle Fleischmann & Mugel has seen additional business in terms of representing employers. It's been a hot spot for several years, he added.
- Litigation — Marlette said it's on the rise, a reflection of the improving corporate scene. Damon Morey also has seen an uptick in litigation work on a national scale, he said.
- Tax — When appeal and corporate lawyers are busy, it's a clear sign of a busy marketplace, according to Oliverio, referring to the projected growth in both tax law and litigation.

- Trade secrets — As the economy continues to heat up, so does the increased focus on intellectual capital and ideas, Kubarek said. His firm makes sure businesses have protection in place to safeguard valuable information, especially if someone leaves a position. One trait of an improved economy is that people change jobs more often, he added.

- Trusts and estates — With the death of former Buffalo Bills owner Ralph Wilson, this became a hot topic. Wilson's estate included the NFL franchise, which was put up for sale and eventually bought by Buffalo Sabres owners Terry and Kim Pegula. Wilson's death shone a light on the practice area, and attorneys see it continuing to get attention in 2015.

What's ahead for Buffalo's legal community in 2015 - Part 2

Editor's Note: This is Part 2 of a two-part series on what to expect in 2015.

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The market for legal services has changed for good, according to Buffalo attorney Daniel Oliverio. The chairman of Hodgson Russ LLP says that, clients are looking for different ways to deal with legal problems, and one of those is fee arrangements.

While the demand for quality legal services is sure to remain strong, clients expect more and many ask firms and attorneys to be creative with the billing structure. It's the new normal in the industry, Oliverio said.

Alternative fee arrangements represent a major change from the "old days" when firms performed the services and simply billed by the hour, he said. Now the relationship is seen as more of a partnership between attorney and client on both the legal and business side.

"That's where we are at now and I think that's where we'll be forever, no matter what geographic area you're in," he said. "You see that in Buffalo, Toronto, New York City and Albany — wherever we have offices. I believe the change to the legal market has settled in and it's going to be a model going forward where lawyers and clients will have to work more closely with respect to the business aspect of their relationship, as opposed to just the straight legal part of their relationship."

The financial crisis fundamentally changed the way corporate clients buy legal services, said Joseph Kubarek, managing partner of Jaeckle Fleischmann & Mugel. He said that in the aftermath of the crisis, which was at its worst in 2008, corporate clients felt they had leverage over legal providers and used it to initiate changes, most specifically in how fees are charged for services.

Peter Marlette, managing partner of Damon Morey, said corporations have gotten used to getting along with less in a tough economy. Indeed, the downturn caused many to tighten their belts, and one of the areas where they cut back was their legal spend.

While some of that money is beginning to be freed up, corporations have not completely loosened those belts, according to Marlette. Once corporations cut their legal budgets by 10 percent to 20 percent, there was no going back, he said.

In recent years, law firms have faced the challenge of continuing to provide that value in a competitive environment, said David McNamara, managing partner of Phillips Lytle. The goal of the firm, he said, is to attract work while demonstrating to clients that it can be done efficiently while meeting their pricing and cost objectives.

McNamara saw continued pressure on rates throughout 2014, a trend that should continue into the new year. In-house counsel also has been looking for ways to reduce the rate of growth in their outside legal spend, he said.

Harnessing technology can be a difference maker, said Daniel Gerber of Goldberg Segalla. That includes such scenarios as creating software programs to figure out how to charge non-hourly fees.

Gerber sees the importance of technology in trying to manage markets.

Technology could come into play in everything from maintaining a seamless IT workflow and data processing to having each lawyer with a desktop dashboard monitoring real-time items such as production and costs to efficiencies that the firm prioritizes, he said.

"For some time now, people have been talking about alternative fees and technology-driven alternatives, but now it seems we've reached a point where a lot of that has come to fruition," said Gerber, a partner at Goldberg Segalla and co-chair of the global insurance services practice group.

How firms bill

These days, there is less billing by the hour, which Kubarek said has created a variety of fee arrangements for law firms and clients. He said that presents a challenge in managing employee workflow so that the same or better profit can be made by the firm.

"We're spending a lot of time putting in protocol to staff correctly — especially in transactions, because that's where you see a lot of the alternative fee arrangements — and using some analytical tools to make sure we're getting a proper rate of return on those things," he said. "And if we're not, we modify the way we perform the services so that we can."

Instead of a traditional hourly fee, clients look for pricing per project or per matter, according to Gerber. A firm that appropriately tracks the life of files and cases should be able to reach a cost per file for the client. In today's environment, he said, law firms are looking to harness data and analyze metrics to provide clients with cost certainty and develop an environment for alternative fee arrangements.

This means law firms are less apt to raise their rates on an annual basis, according to Marlette. Companies looking more often to be billed on a per-matter cost actually has been good for firms such as Damon Morey.

Marlette said there is more willingness from large corporations to use midsized firms in cities such as Buffalo. That's because the rates are more favorable than in major metropolitan areas, he said.

"We can generally provide them with a terrific value and still provide sophisticated service," he said.

Pressure to stand out

McNamara said there is pressure for firms to stand out. A firm must not only price right for services, it helps to acquire and maintain abilities that may be rare in the modern marketplace.

"You only benefit yourself by having those capabilities," he said.

There is pressure to stand out on a client and asset basis, as well, according to Gerber. More need to work at becoming the type of place that employees want to be part of — law firms strive to present themselves as a team that shares the same values as its clients, he added.

It's an ongoing issue not just for law firms and attorneys but all companies, Marlette said.

Many firms want to find the "next best thing" that will help distinguish them from competitors, he said.

However, even as things change, certain things stay the same. Above all, law firms must prioritize the client. Marlette said a firm's top priority should be forming and maintaining a partnership with its clients.

"Firms that do well understand their clients' businesses and get to know them well, give them proactive service and don't surprise them with bills," he said. "The firms that can distinguish themselves in that regard, I think, are the ones that are going to succeed."